

In re Application of: Aharon Ronen Mizrahi et al  
Serial No.: 10/534,136  
Filed: February 22, 2006  
Office Action Mailing Date: November 22, 2010

Examiner: Scott L. Jarrett  
Group Art Unit: 3624  
Attorney Docket: 35935  
Confirmation No.: 8484

### **REMARKS**

Reconsideration of the above-identified application in view of the amendments above and the remarks following is respectfully requested.

Claims 1, 9, 12, 14-17, 19, 23, 46-51, 70-75, 88-100, 113-118 are in this Application. Claims 52-56 and 101-112 have been withdrawn from consideration. Claims 1, 9, 12, 14-17, 19, 23, 46-56, 70-75, 88-100, and 113-115 have been rejected under 35 U.S.C. § 101. Claims 1, 9, 12, 14-17, 19, 23, 46-56, 70-75, 88-100, and 113-115 have been rejected under 35 U.S.C. § 102(b). Claims 1, 9, 12, 14-17, 19, 23, 46, 47, 49-51, 70-72, 88-90, 95, 96, 100 and 113-115 have been rejected under 35 U.S.C. § 103(a). Claims 2-8, 10-11, 13, 18, 20-22, 24-45, 57-69, 76-87 have been canceled in a previous response. Claims 1, 9, 12, 14, 16, 19, 46, 51, 70-75, 94 -95, 100, and 113 - 114, have been amended herewith. Claims 15, 17, 23, 47 – 50, 88 – 93, 96 – 99, and 115 are previously presented. New claims 116 – 122 are added herewith.

In the Remarks, all reference to Mizrahi refers to U.S. Patent Application Publication No. 2006/0155513 A1 "Survey System", to Mizrahi et al., with publication date July 13, 2006 and to the referenced paragraph(s) therein.

### **Amendments To The Claims**

#### **35 U.S.C. § 101 Rejections**

The Examiner rejected claims 1, 9, 12, 14-17, 19, 23, 46-56, 70-75, 88-100, and 113-115 under 35 U.S.C. § 101 as allegedly directed to non-statutory subject matter, and thus, allegedly not eligible for patenting.

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Regarding Claim 1:

The Examiner states in the rejection the claim 1 is directed to a method of conducting a survey by means of a computerized survey system however none of the system elements are enumerated in Claim 1 or its dependents. Therefore the system of claim 1 can be interpreted to be directed to software per se and therefore is not eligible for a patent wherein the software is not embodied on a computer readable medium that when executed by computer/processors performs the method steps.

The Applicant has amended claim 1 (and dependent claims 9, 12, 14-17, 46-56, 70-75, 88-100, and 113-115, where applicable) by replacing the terms "providing" and "transferring" with "transmitting", and "collecting" with "receiving", for clarifying that data in the form of questions, answers and remarks are transmitted and received among components of the computerized survey system, thereby involving use of a machine and removing any possible doubt that the system is a software per se.

Support for the use of the terms "transmitting" and "receiving" may be found in Mizrahi, paragraphs [0047], [0055] – [0056], [0109], [0119], and [0131].

Regarding Claim 19:

The Examiner rejected independent Claim 19 under 35 U.S.C. 101 but did not provide any motives for the rejection (also claims 23 and 100 dependent from claim 19) other than that the claimed invention is directed to non-statutory subject matter.

The Applicant believes that the Examiner's rejection of claim 19 was unintentional (typographic error) as a system for carrying out a survey is claimed comprising a presentation station, a server, and a report unit.

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**Therefore, based on the above explanation, the Applicant respectfully requests from the Examiner to overturn the 35 U.S.C. 101 rejections of claims 1, 9, 12, 14-17, 19, 23, 46-56, 70-75, 88-100, and 113-115.**

**35 U.S.C. § 102 Rejections**

The Examiner rejected claims 1, 9, 12, 14-17, 19, 23, 46-56, 70-75, 88-100, and 113-115 under 35 U.S.C. § 102(b) based upon a public use of sale of the invention – NetOnCourse Inc. MI-Live Product (system and method) as evidence by at least the following references:

- I. NetOnCourse Inc. MI-Live Take the Pulse Of Your Market – Product overview September 2001, herein reference A;
- II. MI-Live Product Demonstration, September 2001, herein reference B.

**Regarding Claims 1 and 19:**

The Examiner is respectfully made aware that the present application is a continuation in part (CIP) of US patent application 10/258,822, filed on October 25, 2002, which is a national phase of PCT patent application PCT/IL01/00391, filed on May 1, 2001, which claims the benefit under 119(e) of US provisional patent application 60/200,837, filed on May 1, 2000. **The applied references are dated September 2001, approximately 16 months following the priority date of May 1, 2000.**

**As the dating of the referenced material is later than the priority date of the present application, the Applicant respectfully requests from the Examiner to**

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**overturn the 35 U.S.C. 102 rejections of claims 1 and 19, and of dependent claims 9, 12, 14-17, 19, 23, 46-56, 70-75, 88-100, and 113-115.**

Notwithstanding the aforementioned, the Applicant has amended independent claims 1 and 19 by adding disclosed subject matter, particularly with respect to additional structural and functional features associated with the distribution of data to the respondent stations and the type of data distributed, thereby possibly further limiting the meaning and scope of the subject matter of independent claims 1 and 19 with respect to the method of conducting the survey session.

Support for the amendments to the claims may be found in Mizrahi, paragraphs [0017], [0026], [0034] – [0038], [0051] – [0066], [0085], [0117] – [0118], [0161] – [0163], and [0191] – [0199].

The Applicant respectfully wishes to point the Examiner's attention to the fact that NetOnCourse Inc. MI-Live product does not teach:

determining a plurality of respondent stations of respondents other than those who generated the received answers and remarks whom are capable of reading at least some of the received answers and remarks during a remaining time in the survey session;

transmitting said at least some of the received answers and remarks to said other respondent stations during the survey session; and

adjusting the progression of the survey session responsive to said generated summary generating at least one closed question responsive to said responses, wherein said at least one closed question probes a reason for said responses.

Referring to Figure 1 (Reference A, Page 7) in the Examiner's OA, it may be understood from the figure and the comments therein that the questions are transmitted

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to all participants in the survey and that any participant may comment on any answer. One may therefore deduce that the answers are transmitted to all the participants and that there is no determining of which respondent stations are capable of responding within the remaining time frame.

Referring to Figure 2 (Reference A, Page 8) in the Examiner's OA it may be readily appreciated that the questions asked are not intended to probe a reason for the responses provided and are merely a series of questions for obtaining statistical information. For example, none of the questions, which are repeated below, probe a reason:

"What color do you prefer in soap?"

"What do you think is a fair price for soap?"

"Where do you normally purchase soap?"

"Do you use a different soap for your face and body?"

"When you purchase soap what are your main considerations?"

**Therefore, the Examiner is respectfully requested by the Applicant to overturn the 35 U.S.C. 102 rejections of claims 1 and 19, and of dependent claims 9, 12, 14-17, 19, 23, 46-56, 70-75, 88-100, and 113-115.**

*35 U.S.C. § 103 Rejections*

The Examiner rejected Claims 1, 9, 12, 14-17, 19, 23, 46, 47, 49-51, 70-72, 88-90, 95, 96, 100 and 113-115 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Brock* U.S. Patent No. 7,181,696 in view of *Davis* U.S. Patent No. 6,256,663. Additionally, the Examiner rejected the claims under 35 U.S.C. 103(a) as unpatentable over Brock in view of NetOnCourse, Inc.

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Regarding Claim 1:

Claim 1 has been amended (as discussed above) and now traverses the Examiner's rejection under 35 U.S.C. 103(a). Neither Brock, nor Davis, nor NetOnCourse Inc. teaches:

determining a plurality of respondent stations of respondents other than those who generated the received answers and remarks whom are capable of reading at least some of the received answers and remarks during a remaining time in the survey session;

transmitting said at least some of the received answers and remarks to said other respondent stations during the survey session; and

adjusting the progression of the survey session responsive to said generated summary generating at least one closed question responsive to said responses, wherein said at least one closed question probes a reason for said responses.

Therefore, combining the teachings of Brock with Davis or with NetOnCourse Inc. would not enable an ordinary person skilled in the art to arrive at the teachings of Mizrahi.

Brock teaches away from the claimed invention by transmitting a query to one or more respondents selected at the moderator's discretion, at a predetermined time, and not allowing the respondents to continue with the survey until they have responded to the query. This is contrary to the teachings of Mizrahi who determines which respondents are capable of responding within a portion of the time remaining in the survey and to them transmits the answers and remarks for obtaining a response. Furthermore, Brock teaches away from the claimed invention by querying the selected respondents on their impression of the web page being viewed, contrary to the teachings of Mizrahi who queries on the reasons for the responses obtained.

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Reference is made to Brock, column 13, lines 4 – 15:

"As shown in FIG. 12, an alternate embodiment of the browser **112** ' includes the capability of providing a form **256** which is "forced" by the moderator upon one or more respondents, at the discretion of the moderator. Form **256** includes the icon/buttons **128** as buttons **258**, a comment box **260** and "OK/Cancel" button choice **262**. In this fashion, the moderator can, at a preselected time determined by the moderator, query the selected participants to obtain their present sense impressions of a particular page being viewed. The form **256** appears on the selected respondent computers **10 A– 10 H** and the designated respondents must respond and provide comments before navigating further."

Davis teaches even further away from the claimed invention by describing communication between a moderator and all respondents using "chat" messaging, where all respondents participate in a chat discussion and are able to see all answers and remarks at all times. Davis sends the respondents answers and remarks without first determining whether the respondent is capable of reading the answers or remarks within a portion of the time remaining in the survey, contrary to the teachings of Mizrahi.

Reference is made to Davis, column 5, lines 58 – 66, and column 6, lines 1 – 8, wherein is described use of "chat" messaging:

"When a respondent successfully logs into the designated chat room, a respondent display 162 is provided, wherein a plurality of respondent chat messages 168 are displayed in a series fashion known as a "chat discussion" or "chat thread". In order to post respondent chat messages, a respondent uses at least one respondent input device, such as a keyboard, mouse or microphone to type respondent chat messages. When chat messages are typed, they appear in the active respondent message window 164. Upon selection of the "send" button 166, the message input into

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the active respondent message window is transmitted to the on-line focus group provider and is subsequently displayed as a next message in the list of messages 168. The manner by which this is accomplished will be discussed in more detail below. Each respondent chat message includes the name of the respondent posting the message and the chat message itself."

Regarding applying the teachings of NetOnCourse, Inc. to Brock to arrive at Mizrahi, as previously discussed for the 35 U.S.C 102(b) rejection and similarly to Davis, NetOnCourse Inc. teaches away from the claimed invention by transmitting the answers and remarks to all the respondent stations without first determining if the respondent is capable of reading the answers and remarks within a portion of time remaining in the survey.

**Therefore, an ordinary person skilled in the art would not think it obvious to apply the teachings of Davis nor NetOnCourse Inc. to Brock to arrive at Mizrahi. On the contrary, their combination would further lead away from the claimed invention.**

**Based on the above explanation, the Applicant respectfully requests from the Examiner to allow currently amended independent claim 1, and dependent claims 9, 12, 14-17, 46, 47, 49-51, 70-72, 88-90, 95, 96, and 113-115 depending from claim 1.**

Regarding claim 19:

The arguments made above in respect of claim 1 apply *mutatis mutandis* to independent claim 19. Based on these arguments, **Applicant asserts that amended**



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**claim 19 is an allowable independent claim and that dependent claims 23 and 100 are consequently allowable as being dependent on an allowable main claim.**

*New Claims*

New dependent claim 116 is added for claiming subject matter which is described in the specification, and which possibly further limits the meaning and scope of the subject matter of independent claim 1 with respect to the method of managing a survey session having a relatively large number of respondents. The cited are does not describe a survey session being moderated by a single moderator and having more than 1000 respondents. **Support for new claim 116 may be found in Mizrahi, paragraph [0110].**

New dependent claim 117 is added for claiming subject matter which is described in the specification, and which possibly further limits the meaning and scope of the subject matter of independent claim 1 with respect to the method of conducting a survey session and generating questions. The cited art does not teach using a closed question to probe a reason for a popular response. **Support for new claim 117 may be found in Mizrahi, paragraph [0161].**

New dependent claim 118 is added for claiming subject matter which is described in the specification, and which possibly further limits the meaning and scope of the subject matter of independent claim 1 with respect to the method of conducting a survey session and generating questions. The cited art does not teach using a closed question to probe a reason for an unpopular response. **Support for new claim 118 may be found in Mizrahi, paragraph [0162].**

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New dependent claim 119 is added for claiming subject matter which is described in the specification, and which possibly further limits the meaning and scope of the subject matter of independent claim 1 with respect to the method of conducting a survey session. The cited art does not teach transmitting a bias to the respondent and receiving the bias in the answer. **Support for new claim 119 may be found in Mizrahi, paragraph [0019] - [0020].**

New dependent claims 120 - 122 are added for claiming subject matter which is described in the specification, and which possibly further limits the meaning and scope of the subject matter of independent claim 1 with respect to the method of conducting a survey session. The cited art does not teach controlling a pace of the survey session by transmitting the received answers and remarks concurrently to those respondent stations determined to be capable of reading the answers and remarks within the portion of time remaining in the survey. **Support for new claims 120 - 122 may be found in Mizrahi, paragraph [0019] - [0020].**

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**Conclusion**

In view of the above amendments and remarks it is respectfully submitted that claims 1, 9, 12, 14-17, 19, 23, 46-51, 70-75, 88-100, 113-115 are now in condition for allowance together with new claims 116 – 122. A prompt notice of allowance is respectfully and earnestly solicited.

Prior to mailing of the Examiner's next Official Action, the Examiner and his Supervisor are invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

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**Enclosures:**

- Petition for Extension (3 Months)
- Request for Continued Examination (RCE)